

## Division of Forensic Sciences

### Submission Advisory Committee Meeting

March 16, 2022, 1:00 – 2:30PM

Contact: Nicole Roehm, 414-216-8769, [roehmnl@doj.state.wi.us](mailto:roehmnl@doj.state.wi.us)

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Notice is hereby given that a virtual meeting of the Division of Forensic Sciences Advisory Committee March 16, 1:00-2:30PM will conduct the following business:

- I. Welcome and Introductions
  - a. Judge McGinnis, James Andreas, AUSA Corey Stephan, Peggy Cairo, Daniel Campbell, Carlton Cowie, Ben DeStaerke, Amber Hahn, Susan Happ, Ruth Henk, Stephanie Hilton, Katie Hoffmeyer, Birjees Kauser, Keith Alexander, Keith Findley, Noel Lawrence, Kathy Mahnke, Jennifer Naugle, Megan Niebauer, David Poteat, Emily Ramsey, Billie Robbins, Nikki Roehm, Shelly Rusch, Rachel Souther, Sara Thomas, Melisa Wittkowske, Mallory Zart
- II. Meeting announcement & agenda published on DOA Public Meetings website
- III. Sexual Assault Kit Guidelines (Kathy Mahnke)
  - a. NR – Explanation of Guidelines
    - i. Protocol 1/1/2016 – DFS only reports to LE, people who present to SANE programs but are not ready for testing they have 10 years. Engage with LE who would contact us. One testing pipeline
    - ii. Formal legislation
  - b. JN – Looking forward to moving forward with process to get these guidelines out
    - i. Communication between labs, submitting agencies, prosecutor
    - ii. Guidelines for communication
  - c. NR – Act 116 requires submission of kits (not testing) circumstances in GL where testing may not happen. If testing is not appropriate, a letter will be sent to submitting agency – crime lab report or letter – corr. to close loop
  - d. KM –Possible Reasons why a SA Kit Will Not be Tested section – Questions?
    - i. A. Hahn: Different order aside. Overreaching concern re bullet points and statute – ‘may’ vs. ‘cannot’ language. Quote the statue or be cautious in citing Concern with bullet point re criminal offense level - who makes that determination and what information are they using
    - ii. NR: Worthwhile to capture information re going through DA’s Office?
    - iii. AH: Unlikely can keep up with ongoing investigations. Believes problematic to give DA power to stop testing
    - iv. JN: Should we not give DA Authority to make the decision?
    - v. AH: Perfect world – SG would not be concerned with level of offense
    - vi. JN: We do not close the door on testing (unless damaged evidence) and ask that if circumstances change we will pull back into queue

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- vii. D. Poteat: SA are reviewed by DA's Office – other than determined consensual few situations to screen out kits
- viii. S. Rusch: Second A. Hahn, will forward edits on document over. Test results rolling in – statute of limitations. Wisconsin Constitution of Victim's Rights. County's ability to make determine worrisome. Acknowledges resource issues
- ix. N. Roehm – Resources are an issue with this level of work – SA cases are complicated and time consuming, but we are coming up on biennial budget season and Act 116 & SAKI show it's best we seek additional resources
- x. M. Wittkowske: Not testing bc suspect is in CODIS
- B. Any other areas of document?
  - i. DNA Submission Guidelines – clarify table, NR: get on cycle of updating. Remember that the audience is LE when choosing language with these SG. LE might not be familiar with specific legal knowledge
  - ii. K. Findley: Where is the description for submitting agencies re what information should be provided, is that set forth somewhere else? Recommends that should be provided in SG
    - 1. NR: This is supplemental to DNA Submission Guidelines – we should make a reference that they are tied together. DNA Submission GL are on docket for fall
  - iii. KF: Packaging language – ways to mask samples to decrease bias.
    - 1. NR: Kathy strips away that information before in queue for testing
  - iv. A. Hahn: Provide example of how to fill out our docs for LE to reference
  - v. A. Hahn: What circumstances is consent not clear? Instead of not testing letter why not reach out to agency and ask did they consent to testing
    - 1. NR: That bullet point is coming from language in Act 116 legislation: two-week/finite window – in LE custody and can change mind. Had to add into kit tracking system.
    - 2. S. Rusch: Wording issue and can be rephrased for clarity
    - 3. D. Poteat: Agrees with clarifying that bullet point

#### IV. Controlled Substances Submission Guidelines (Kathy Mahnke)

- a. Misdemeanor cases
- b. NR: Is it in the best interest of the WSCL to not state statutes:
  - i. A. Hahn: Statute followed by statement – thought is that statement is in that statute. Can reference but be careful how because of disagreement on what statutes mean
  - ii. K. Findley: agree should cite
- c. Any comments on CS Submission Guidelines:

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- i. A. Hahn: nothing jumped out needing redline but again audience comment – Pharms comment – improve by listing 961 statutes to specify
  - ii. B. Robbins: Misdemeanor: Sounds as if trial date we would test all misdemeanor charges – that is not always the case. May want to reword/clarify
  - iii. S. Happ: Issue with decision not to test misdemeanor and to test felony – address consistency of phrasing on GL vs. Statue. Further clarify misdemeanor within felony cases
  - iv. A. Hahn: Address paraphernalia head on? when it will/will not be tested in GL
    - 1. R. Henk: generally, do not test paraphernalia
    - 2. BR: unless only items
- d. NR: Goal of final draft to vote on and publish change prior to September
- e. Floor open for discussion:
  - i. A. Hahn re new kit guidelines: WILENet opportunities, video re using forms appropriately
  - ii. Various paperwork depending on county, think about educational effort with Act 116 to use same paperwork
    - 1. NR: Procurement for new LIMS and we would have this built in (2024)
  - iii. D. Poteat: record management system – export to form as close to lab form as possible
    - 1. NR: looping in for testing to assure compatibility. Automation
- V. 2022 DFS Symposium reminder: October 4-5 at the Monona Terrace – 75 years
- VI. Closing remarks

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